

REMARKS

The Applicants thank the Examiner for the Office Action of September 15, 2009 and for the telephone discussion of September 22, 2009.

1) Status of Case

The case originally included claims 1–70. Those claims were cancelled in favour of a revised set of claims 71–194. Claims 71–194 were subject to restriction, and claims 71–94 were elected for further prosecution, claims 95–194 being non-elected claims.

In the Office Action of September 15, 2009, all of claims 71–89 were allowed. Claims 90 to 93 continue to be rejected under 35 USC 102(b) as being anticipated by US Patent 4,179,995 of Day. Claim 94 would be allowable if re-written in independent form.

2) Commentary

As discussed with the Examiner by telephone on September 22, 2009, it appears that there may have been a misunderstanding.

With reference to Figure 3 of the Day reference, the Applicants point out that the axis of revolution of the rolling contact surface of the claimed apparatus is parallel to the axis about which the arches of the bearing adapter are formed. As discussed, for all practical purposes the bearing adapter axis can be taken as being the axis of the wheelset and of the wheelset bearing.

By contrast, the rocking surfaces shown in Day Figure 3 are formed about an axis that is oriented longitudinally with respect to the sideframe, i.e., perpendicular to the axis recited in claim 90.

As such, the Applicants respectfully submit that claims 90–94 not anticipated by Day under 35 USC 102(b).

Therefore the Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of the claims.

3) **Conclusion**

The Applicants respectfully submit that claims 71–94 currently pending in this case are currently in condition for allowance, and seeks early and favourable disposition of this matter.

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